IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	Attorney Docket No.: **ICB0272**
Guy RAEBER et al.	)	Confirmation No. 7206
Serial No.: 10/598,550	)	Group Art Unit: 2833
Filed: September 5, 2006	)	Examiner: Sean Phillip Kayes
For: ELECTRONIC DEVICE WITH ANALOGUE DISPLAY OF THE HISTORY OF AT LEAST ONE QUANTITY MEASURED BY A SENSOR	)	Date: January 28, 2009

TELEPHONE INTERVIEW SUMMARY (G)

MAIL STOP: AF
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401 Dulany Street
Alexandria, VA 22314

Sir:

In accordance with 37 C.F.R. § 1.133, Applicants respectfully request that the following telephone interview summary be entered with respect to the application identified above:

Remarks/Arguments begin on page 2 of this paper.

REMARKS

Applicants' attorney, Wesley Ashton, contacted the office of John Kabecka, Director of Art Unit 2833 (571-272-8004), on January 21, 2009, to discuss the present application in view of the Examiner's refusal to substantiate an "Official Notice" that had been traversed by Applicants (See, e.g., Applicants' Amendment (E), filed December 30, 2008, at 14, line 17, to 15, line 12, and the Examiner's Advisory Action, mailed January 15, 2009). MPEP § 2144.03. On January 23, 2009, Renee Luebke (571-272-2009), SPE for Art Unit 2833, contacted Applicants' attorney to discuss the issue. Examiner Luebke informed Applicants' attorney that an Examiner who makes a "final" rejection is not obligated to substantiate the "Official Notice" unless a Request for Continued Examination (RCE) is filed. Examiner Luebke told Applicants' attorney that if an RCE was filed in this case, the Examiner would either substantiate the "Official Notice" with a reference or withdraw the rejection.

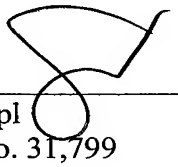
Applicants' attorney informed Examiner Luebke that the Administrative Procedure Act, as interpreted by the Federal Circuit, requires that the Examiner's rejections employ "reasoned decision making" based on evidence from a fully developed administrative record. See, e.g., In re Lee, 61 U.S.P.Q.2d 1430, 1433 (Fed. Cir. 2002). Applicants' attorney additionally informed Examiner Luebke that patentability determinations based on what the Examiner believes is "basic knowledge" and "common sense," and that otherwise lacks substantial evidentiary support, are impermissible as a mater of law. See, e.g., In re Zurko, 59 U.S.P.Q.2d 1693, 1697 (Fed.Cir. 2001). Applicant's attorney further argued that the issuance of a "final" Office Action that includes an "Official Notice," as is the case here, does not relieve the Examiner from the evidentiary burden to substantiate an "Official Notice" and provide substantial evidentiary support for all facts asserted by the Examiner. Therefore, Applicants' attorney respectfully renewed Applicants' traverse of the Examiner's Section 103 rejection of independent claims 23, 27 and 28 on the ground that the Examiner's "Official

Notice" lacks "substantial evidentiary support" and because the "Official Notice" does not pertain to subject matter commonly known in the art as is evident from the prosecution history of the present case.

The below-signed attorney for Applicants welcomes any questions.

Respectfully submitted,

GRIFFIN & SZIPL, P.C.



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